



**TOWN OF YEMASSEE  
ZONING BOARD OF APPEALS WORKSHOP AGENDA**

**Tuesday, September 26, 2023 – 6:30 p.m.**

**Yemassee Municipal Complex, 101 Town Cir, Yemassee SC 29945-3363**

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Mr. Tyshawn Shaw, Zone A

Mr. Robert Jackson, Zone B

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Ms. Janice Foster, Zone C

Mr. Stephen Henson, Zone D

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Ms. Garey Gibbs, At-Large

Ms. Caroline Koger, Staff Liaison

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- I. Call to Order**
  - II. Roll Call**
  - III. Determination of Quorum**
  - IV. Adoption of the Agenda**
    - a. Consent of the Agenda for the Tuesday, September 26, 2023, Zoning Board of Appeals Workshop.
  - V. Old Business**
    - a. Approval of the August 16, 2023, meeting.
  - VI. New Business**
    - a. Discussion of Rules and Procedures for the ZBoA.
  - VII. Additional Business**
  - VIII. Adjourn**

Colin J. Moore

*Mayor*

Peggy Bing-O'Banner

*Mayor Pro Tempore*

Matthew Garnes

*Town Administrator*



*Council Members*

Alfred Washington

Stacy Pinckney

David Paul Murray

### Committee / Commission Agenda Item

**Subject:** Approval of August 16, 2023, ZBoA Minutes

**Submitted by:** Caroline Koger, Staff Liaison to Committee

**Attachments:**

	Ordinance		Resolution		Other
√	Support Documents		Motion		

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**Summary:** Minutes of the August 16, 2023, ZBOA Meeting.

**Recommended Action:** If no additions, corrections, or modifications, adopt minutes as presented.

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**Committee Action:**

- Approved as Recommended
- Approved with Modifications
- Disapproved
- Tabled to Time Certain
- Other

Town of Yemassee  
Zoning Board of Appeals Minutes  
August 16, 2023 / 6:30 p.m.  
Yemassee Municipal Complex, 101 Town Cir, Yemassee, SC 29945-3363

Present: Mr. Tyshawn Shaw, Ms. Garey Gibbs, Mr. Robert Jackson, Mr. Stephen Henson

Staff Present: Ms. Caroline Koger

Absent: Ms. Janice Foster

Media Present:

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Call to Order:

The Town of Yemassee Zoning Board of Appeals was called to order at 6:39 p.m. by Chairman Robert Jackson.

Roll Call:

All in attendance except Ms. Janice Foster.

Determination of Quorum:

Quorum satisfied.

Adoption of the Agenda:

Mr. Henson made a motion to consent to the Agenda for the Wednesday, August 16, 2023, Zoning Board of Appeals Meeting. Ms. Gibbs seconded the motion. All in favor, motion passed.

Old Business:

Approval of the July 19, 2023, Zoning Board of Appeals Meeting Minutes. Mr. Jackson asked if there were any corrections or changes to the minutes. Ms. Gibbs made the motion to approve the minutes as presented. Second by Mr. Shaw. All in favor, motion passed.

New Business:

Discussion of Rules of Procedures. After a thorough review and discussion on the sample from the Town of James Island, Ms. Koger will incorporate the sample and changes into a draft to be reviewed at the next meeting.

Additional Business:

None.

Adjournment. Ms. Gibbs made the motion to adjourn. Mr. Shaw seconded the motion. All in favor, motion passed. The meeting adjourned at 8:05 p.m.

Colin J. Moore

*Mayor*

Peggy Bing-O'Banner

*Mayor Pro Tempore*

Matthew Garnes

*Town Administrator*



*Council Members*

Alfred Washington

Stacy Pinckney

David Paul Murray

### Committee / Commission Agenda Item

**Subject:** Discussion of Rules and Procedures for the ZBoA

**Submitted by:** Caroline Koger, Staff Liaison to Committee

**Attachments:**

	Ordinance		Resolution		Other
√	Support Documents		Motion		

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**Summary:** Discussion

**Recommended Action:**

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**Committee Action:**

- Approved as Recommended
- Approved with Modifications
- Disapproved
- Tabled to Time Certain
- Other

# Town of Yemassee Zoning of Zoning Appeals Rules of Procedure

## Article I Organization

**Section 1. Rules.** These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the Town of Yemassee Zoning Board of Appeals with 5 members appointed by Town Council for staggered terms.

**Section 2. Officers.** The officer of the board shall be a chair elected for one-year terms at the first meeting of the board in each calendar year. The Human Resource Specialist shall appoint a member of the staff as secretary of the board. In the absence of the chair, an acting chair shall be elected by the members present.

**Section 3. Chair.** The chair shall be a voting member of the board and shall:

- a. Call meetings of the board to Order; introduce Board members to the public;
- b. Preside at meetings and hearings; and may swear in witnesses or may request the counsel; or the secretary to administer the oath;
- c. Act as spokesperson for the board;
- d. Authority to sign documents for the board;
- e. Have orders of the board served on parties;
- f. Perform other duties approved by the board;
- g. The Chair is a full voting member of the Board of Zoning Appeals; and
- h. The Chair may make or second any motion or may call a question.

**Section 5. Secretary.** The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chair in preparation of agenda;
- c. Properly post property involved in appeals for variances or special exceptions;
- d. Keep recordings and minutes of meetings and hearings;
- e. Maintain board records as public records;
- f. Serve board decisions on parties;
- g. Attend to board correspondence; and
- h. Perform other duties normally carried out by a secretary.

**Section 6. Members.** A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the chair in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

**Section 7. Counsel.** The Counsel shall be the counsel for the Mayor and Town Council. Counsel may assist in the preparation of orders, amendments to the Rules of Procedure, or drafting responses to appeals to Circuit Court.

## Article II Meetings

**Section 1. Time and Place.** An annual schedule of regular meetings shall be adopted, published and posted at the designated Town Hall office in December of each year. Special meetings may be called by the chair upon 24-hour notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

**Section 2. Agenda.** A written agenda shall be furnished by the secretary to each member of the board and the news media and shall be posted at least 24 hours prior to each meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

**Section 3. Quorum.** A majority of the members of the board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting. A quorum shall include members present even if they are disqualified from voting by law.

**Section 4. Rules of Order.** *Robert's Rules of Order Newly Revised*, latest edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

### **Article III Appeals Procedure**

**Section 1. Form of Appeal.** Appeals from administrative decisions, applications for variances and applications for special exceptions shall be filed in person on forms approved by the board and provided to applicants by the Town of Yemassee (101 Town Circle, Yemassee, SC 29945). The board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

**Section 2. Time for Appeal.** An appeal from an administrative decision must be filed within 15 days after the decision becomes a matter of public record by denial or issuance of a permit or the filing of a written decision in. An appeal shall be filed by delivery of the approved appeal form to secretary of the board who shall notify the official appealed from.

**Section 3. Calendar.** Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the board for good cause shown.

**Section 4. Withdrawal of Appeal.** Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the board. An appeal from an administrative decision which is withdrawn may not be re-filed after the 15-day time for appeal has expired. Withdrawn applications for variances and special exceptions may be re-filed after six months and shall be placed on the calendar according to the date re-filed.

**Section 5. Continuances.** The board may continue an appeal or application hearing one time for good cause shown.

**Section 6. Notice.** Public notice of a hearing of the board shall be published in a local newspaper and posted on or adjacent to the property affected at least 15 days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

### **Article IV Hearing Procedure**

**Section 1. Appearances.** The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

**Section 2. Witnesses.** All persons giving testimony must be sworn in before being called upon by the Chair to speak. Witnesses may be compelled to attend by subpoena requested at least 10 days prior to a hearing and signed by the chair. The board may call its own witnesses when deemed

appropriate.

**Section 3. Cross-examination.** No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

**Section 4. Evidence.** Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chair will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

**Section 5. Conduct of Hearing - Appeals.** The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Compliance with the Freedom of Information Act;
- c. Introduction of Board members by the Chair;
- d. Review and act on Summary of previous meeting;
- e. Brief the public on the Procedures of the BZA;
- f. Administration of Oath for all participants giving testimony;
- g. Statement of matter to be heard (chair or secretary);
- h. Presentation by Appellant (5-minute limit);
- i. Questions to Appellant by BZA;
- j. Presentation by official appealed (5-minute limit);
- k. Questions to Staff by BZA;
- l. Presentation by public in support or opposition (2-minute limit);
- m. Rebuttal by Appellant (2-minute limit);
- n. BZA motions to close the case to the public;
- o. BZA motions stating specific findings of fact and conclusions of law; and
- p. Hear next case; additional business or Adjourn.

The board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

**Section 6. Conduct of Hearing - Variances and Special Exceptions.** The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Compliance with the Freedom of Information Act;
- c. Introduction of Board members by the Chair;
- d. Review and act on Summary of previous meeting;
- e. Brief the public on the Procedures of the BZA;
- f. Administration of Oath for all participants giving testimony;
- g. Statement of matter to be heard (chair or secretary);
- h. Presentation by Staff;
- i. Questions to Staff by BZA;
- j. Presentation by Applicant (10-minute limit);
- k. Questions to Applicant by BZA;
- l. Presentation by public in support or opposition (2-minute limit);
- m. Rebuttal by Applicant (2-minute limit);
- n. BZA motions to close the case to the public;
- o. BZA motions stating specific findings of fact and conclusions of law; and
- p. Hear next case, additional business or Adjourn.



The Board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

**Section 7. Disposition.** The Board may deliberate and make final disposition of a matter by majority vote of members present and qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which he or she has not heard. Deliberating and voting shall be done in public.

**Section 8. Form of Order.** An order shall be issued disposing of a matter by granting or denying relief with such conditions may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

**Section 9. Service of Order.** The secretary shall deliver a copy of an order to each party in interest by certified mail within 10 days upon execution of the order by the chair.

**Section 10. Rehearing.** The board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within 30 days after delivery of the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome. Upon vote of the BZA, a member from the prevailing side may make a motion to reconsider a case at the same or next BZA meeting. Any member may second the motion. If the motion to reconsider the case is granted, then the case will be scheduled and heard by the BZA at the next available BZA public hearing. A case may be reconsidered only once. The BZA may vote to consider amending or removing a condition(s) for approved Variances or Special Exceptions within a year from the approval date, only when the applicant/owner can demonstrate to the BZA that the condition(s) is not feasible and/or cannot be reasonably met or if the Planning Director determines that the conditions are not in the best interests of the Town. If a motion to reconsider a condition(s) is granted, it will be scheduled and heard by the BZA at the next available BZA public hearing.

## **Article V Records**

**Section 1. Minutes.** The secretary shall record all meetings and hearings of the board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the board at the next regular meeting. Minutes shall be maintained as public records.

**Section 2. Transcripts.** Any applicant or party in interest may request a transcript to be generated from the recording of the meeting or hearing. The cost of such transcript shall be at the expense of the applicant or party of interest. In the event there is an appeal to Circuit Court the transcript shall be done at the expense of the Town but may be awarded by the Court at the expense against the party or person bringing the appeal.

**Section 3. Orders and Documents.** The secretary shall assist in the preparation and service of all orders of the board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

## **Article VI Ethics Policies**

**Section 1. Conflict of Interest.** No Zoning Board of Appeals member may knowingly use his official office to obtain an economic interest for himself. A member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment subject to or available for a Board's use which does not result in additional public expenses.

Members must have the right and the obligation to vote on all questions before them and to participate in the business of the Zoning Board of Appeals, except when a conflict of interest exists.

- a. Notification of Conflict of Interest.** Whenever the Zoning Board of Appeals is considering a matter which raises a question of conflict for the particular member, the member is responsible for alerting the Board Chairperson prior to the commencement of the meeting. Each member is responsible for determining when a conflict of interest exists.
- b. Conduct at Meetings Where a Member has a Conflict of Interest.** If any member declares a conflict of interest with any particular item, the member shall notify the Board and the public in attendance of the conflict of interest. The member shall recuse himself from participation in both the Board's discussion and voting on the item and shall remove himself from the meeting room until the item has been completed by the Zoning Board of Appeals.
- c. Minimizing Conflicts.** It is intended that situations resulting in conflict of interest for members shall be minimized.

**Section 2. Ex Parte Communication.** Ex parte communications are contacts between individuals seeking to influence a decision of members of the Zoning Board of Appeals outside the meeting forum on any matter that is or will be before the Board for consideration. The prohibitions of this policy shall apply beginning with the placing of an item on the Zoning Board of Appeals meeting agenda for decision or at the time a Board member becomes knowledgeable that a notice of public hearing before the Board has been issued by the Town staff.

Members shall attempt to avoid ex parte communications concerning such matters. Should ex parte contacts occur where relevant and material information is obtained for consideration by a member, then such information shall be disclosed prior to or at the time of the public hearing and/or public meeting of the Board so that interested parties may have an opportunity to respond.

- a. Managing Ex Parte Communication.** Board members shall not initiate ex parte communications. If an ex parte communication is initiated by another person, the Board member contacted shall:
  1. Refrain from discussing the substance or merits of a case;
  2. Inform the person, if necessary, that such a discussion could lead to disqualification of the member from voting;
  3. Refer the person to the Town Administrator, or to the Board meeting, as appropriate; and
  4. Report on the conversation to the Board and the public at a public meeting.

**Article VI  
Amendment and Adoption**

**Section 1. Amendment.** These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven days after the written amendment is delivered to all members.

**Section 2. Adoption.** These rules were adopted by vote of a majority of the members of the board at a regular public meeting on Month Date, Year.

Attest \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chair

Adopted June 18, 2013  
Revised: November 20, 2018

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